IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

1. CIVIL WRIT No. 1741 of 2006

KABIRDEEN
V/S
CIVIL JUDGE(J.D.) ANR J.M.TARANAGAR &ORS

2. CIVIL WRIT No. 1472 of 2006

KABIRDEEN
V/S
CIVIL JUDGE(J.D.)& J.M.CHURU & ORS.

Mr. MANISH DADHICH, for the appellant / petitioner

Mr. HR SONI, A.G.A., for the respondent

Date of Order : 21.8.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

These two writ petitions have been filed against the impugned order of the same date being 22.11.2005 passed in two different proceedings. Writ No. 1741 is filed against the order passed in the original suit, while Writ No. 1472 is filed against the order of the same date passed in temporary injunction proceedings, and since the controversy involved in both the writ petitions is common, both these petitions are being decided by this common order.

Heard learned counsel for the parties.

The present suit has been filed for declaration

and injunction claiming interalia that exparte order was passed by the Tehsildar dt. 19.5.1994 to dispossess the petitioner, and that suit had been dismissed in default which was restored vide order dt. 16.8.2005 subject to payment of cost of Rs. 100/- which cost had not been paid despite number of adjournments, therefore, that restoration order has been cancelled. Against the order of cancellation of restoration that present writ petitions have been filed. In the reply filed in Writ No. 1741, it is contended that the petitioner had filed another suit being Suit No. 32/96 in the Court of Civil Judge (J.D.) Taranagar with respect to the same property, and praying the same injunction, and also claiming that the order of Tehsildar dt. 19.5.94 is void having been passed without giving any opportunity to him, and it is prayed that that order be declared to be void. That suit had been dismissed by the learned trial court after full dressed trial on 12.10.99 vide Annexure R/1. An appeal against that decree had already been dismissed on 31.1.2003 vide order Annexure R/2, and therefore, it is contended that there is no justification for restoration of the present suit filed in the year 2001.

In my view, keeping in view Annexure R/1, and R/2, irrespective of the correctness, or otherwise of the impugned order dt. 22.11.2005 no interference is required to be made in my writ jurisdiction.

These writ petition are, therefore, dismissed summarily.

(N P GUPTA),J.

/sushil/